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Attorneys for Defendants M.T.M. TRANSPORTATION,
A corporation; DESERT WIND ENTERPRISES., a
Corporation, RONALD McCOY, an individual and
ROBERT COLLINS, an individual

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

JOHN D. CLEMENT, Individually and as
Personal Representative of the Estate of James
D. Clement, Sr., Deceased,

Case No. C 06-01499 SBA

Plaintiffs,

V.

STIPULATION AND ORDER RE FIRST APPEARANCE AND CMC

M.T.M. TRANSPORTATION, a corporation; DESERT WIND ENTERPRISES, INC., a corporation; RONALD McCOY, an individual; ROBERT COLLINS, an individual; and DOES 1-100, inclusive,

Defendants.

WHEREAS, one or more defendants have been duly served with process in this matter and a first appearance is due on or before June 12, 2006, a Joint Case Management Conference (CMC) Statement is due June 21, 2006, and a CMC is scheduled for June 28, 2006, the parties hereby request that there matters be continued for the following reasons:

1. This wrongful death action arises out of a motor vehicle accident which occurred in Lassen County, California, within the Northern District of California;

1 2. This wrongful death action is not the only wrongful death action that has been filed
2 as a consequence of the motor vehicle accident;

3 3. A second action for wrongful death is pending in Lassen County, California,
4 Superior Court;

5 4. Each of the two actions for wrongful death has been brought by separate and
6 competing heirs;

7 5. Defendants will be filing a motion to change venue of the within action from the
8 Northern District Court to the Eastern District Court;

9 6. Defendants will be seeking to remove the Lassen County Superior court Action to
10 the Eastern District Court in order to join all actions by all heirs into a single proceeding;

11 7. The parties for all heirs and all defendants agree through their counsel that an early
12 mediation of these actions could result in an early resolution of all claims and actions;

13 8. Counsel for all parties desire to avoid preparing multiple motions, stipulations, and
14 other proceedings in these actions if the parties can reach early resolution;

15 9. The assets available to settle the claims of all heirs in both wrongful death actions,
16 including available liability insurance, are fixed or otherwise limited and may be insufficient to
17 adequately compensate all heirs in both wrongful death actions;

18 10. Under the circumstances, no party benefits from delay in resolving the claims of all
19 heirs.

20 **ACCORDINGLY**, the parties in the above-entitled action submit the following
21 stipulations for the court's approval:

1 1. That the defendants M.T.M. Transportation, a corporation, Desert Wind
2 Enterprises, Inc., a corporation, Ronald McCoy, an individual, and Robert Collins, an individual be
3 granted an extension of time to enter their first appearance in this matter through August 31, 2006;
4

5 2. That the court's initial Case Management Conference (CMC) be continued from
6 June 28, 2006 at 3:00 p.m. to _____, 2006 at _____ a.m./p.m. to be conducted by
7 telephone, plaintiffs' counsel to initiate the conference call;

8 3. That the parties will submit a joint CMC statement no later than
9 _____, 2006, unless the matter settles prior to that date.
10

11 DATED: June 13, 2006

BAUM HEDLUND, PC

12 /s/
13

14 JOHN A. GREAVES
15 Attorneys for Plaintiffs
16

17 Dated: June 13, 2006

TRIMBLE, SHERINIAN & VARANINI

18 /s/
19

20 S
21 A
22 O
23

24 JUDG
25 COUF
26 CALIF
27

28 CT

IT IS SO ORDERED.

DATED: 6/30/06

